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Frank C Eisenschenk

Frank C. Eisenschenk, Ph.D., Patent Attorney

DECLARATION UNDER 37 C.F.R. § 1.131
Examining Group 1617
Patent Application
Docket No. UTR-104
Serial No. 09/654,357

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner	:	Helen Nguyen
Art Unit	:	1615
Applicants	:	Michael B. Zemel, Hang Shi, Paula C. Zemel
Serial No.	:	09/654,357
Filed	:	September 1, 2000
For	:	Materials and Methods for the Treatment or Prevention of Obesity

Commissioner of Patents and Trademarks
Washington, D.C. 20231

DECLARATION UNDER 37 C.F.R. § 1.131

Sir:

DR. MICHAEL B. ZEMEL, DR. HANG SHI, AND DR. PAULA C. ZEMEL DECLARE:

1. THAT we are co-inventors of the invention disclosed and claimed in U.S. Application Serial No. 09/654,357.

2. THAT said invention was completed in the United States prior to January 2000, as shown by the following exhibits. We conceived and reduced to practice methods for the stimulation of lipolysis in animals by increasing the amounts of dietary calcium consumed by these animals. Dietary calcium is provided in the form of calcium carbonate or powdered non-fat milk. Exhibit 1 shows that increasing dietary calcium stimulates lipolysis. The effects of a high calcium diet on adipocyte lipolysis was assayed using a glycerol release assay as described in Example 2 of the above-identified patent application.

3. THAT Exhibit 1 is a copy of pages taken from a laboratory record created and maintained in the normal course of laboratory operations, prior to January 2000. The completion date of the experiments and analyses recorded in these laboratory notebook pages have been redacted. We hereby attest that these redacted dates are prior to the critical date.

We hereby further declare that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Further, Declarants sayeth not.

By:_____ Date:_____
Michael B. Zemel, Ph.D.

By:_____ Date:_____
Hang Shi, Ph.D.

By:_____ Date: 8-21-2001
Paula C. Zemel, Ph.D.

PHOTOMETRY/GLYCOL-m[illegible]

ID	I	mol/l			
STD 1	1.[illegible]43	0.000			
STD 1	1.[illegible]35	0.000			
MEAN=	.842	SD=	0.009	RSD=	0.489
STD 2	.15	1.000			
STD 2	.14	1.000			
MEAN=	2.44	SD=	0.009	RSD=	0.072
STD 3	3.060	2.500			
STD 3	3.097	2.500			
MEAN=	3.078	SD=	0.026	RSD=	0.844
STD 4	8.319	5.000			
STD 4	8.315	5.000			
MEAN=	8.317	SD=	0.002	RSD=	0.024

PHOT[illegible]TRY/GLYCEROL

ID	I	mol/l			
STD 1	2.006	0.000			
STD 1	1.995	0.000			
MEAN=	2.000	SD=	0.007	RSD=	0.350
STD 2	2.988	0.050			
STD 2	3.001	0.050			
MEAN=	2.994	SD=	0.009	RSD=	0.30[illegible]
STD 3	8.394	0.100			
STD 3	8.417	0.100			
MEAN=	8.405	SD=	0.016	RSD=	0.190
STD 4	10.77	0.250			
STD 4	10.75	0.250			
MEAN=	10.76	SD=	0.014	RSD=	0.130
STD 5	15.[illegible]0	0.500			
STD 5	15.36	0.500			
MEAN=	15.36	SD=	0.000	RSD=	0.000
STD 6	15.44	1.000			
STD 6	15.[illegible]5	1.000			
MEAN=	15.41	SD=	0.009	RSD=	0.058
1	4.[illegible]73	0.074			
1	4.[illegible]62	0.074			
MEAN=	0.074	SD=	0.000	RSD=	0.000
2	1.096	0.086			
2	1.070	0.085			
MEAN=	0.085	SD=	0.000	RSD=	0.000
3	6.028	0.143			
3	6.022	0.143			
MEAN=	0.143	SD=	0.000	RSD=	0.000
4	3.148	-0.016L			
4	3.17[illegible]	-0.014L			
MEAN=	-0.015	SD=	0.001	RSD=	-6.667
5	3.473	0.002			
5	3.479	0.003			
MEAN=	0.002	SD=	0.000	RSD=	0.000
6	5.089	0.092			
6	5.085	0.091			
MEAN=	0.091	SD=	0.000	RSD=	0.000
7	4.540	0.061			
7	4.530	0.061			

	6	5.085	091			
4a MEAN=		0.091	SD=	0.000	RSD=	0.000
	7	4.540	0.061			
	7	4.530	0.060			
4b MEAN=		0.061	SD=	0.000	RSD=	0.000
	8	5.955	0.139			
	8	5.933	0.138			
5a MEAN=		0.138	SD=	0.000	RSD=	0.000
	9	5.967	0.140			
	9	5.941	0.139			
5b MEAN=		0.139	SD=	0.000	RSD=	0.000
	10	3.946	0.028			
	10	3.929	0.028			
6a MEAN=		0.028	SD=	0.000	RSD=	0.000
	11	2.255	-0.065L			
	11	2.259	-0.065L			
6b MEAN=		-0.065	SD=	0.000	RSD=	0.000
	12	5.853	0.134			
	12	5.844	0.133			
7a MEAN=		0.133	SD=	0.000	RSD=	0.000
	13	6.030	0.143			
	13	6.004	0.142			
7b MEAN=		0.142	SD=	0.000	RSD=	0.000
	14	4.075	0.036			
	14	4.045	0.034			
8a MEAN=		0.035	SD=	0.001	RSD=	2.857
	15	4.996	0.086			
	15	4.993	0.086			
8b MEAN=		0.086	SD=	0.000	RSD=	0.000
	16	3.785	0.020			
	16	3.782	0.019			
9a MEAN=		0.019	SD=	0.000	RSD=	0.000
	17	5.017	0.088			
	17	5.020	0.088			
9b MEAN=		0.088	SD=	0.000	RSD=	0.000
	18	5.373	0.107			
	18	5.365	0.107			
10a MEAN=		0.107	SD=	0.000	RSD=	0.000
21 = 22	19	2.711	-0.040L			
	19	2.705	-0.040L			
10b MEAN=		-0.040	SD=	0.000	RSD=	0.000
	20	4.237	0.045			
	20	4.234	0.044			
11a MEAN=		0.044	SD=	0.000	RSD=	0.000
	21	5.423	0.110			
	21	6.055	0.145			
11b MEAN=		0.127	SD=	0.024	RSD=	18.89
	22	6.032	0.144			
	22	6.035	0.144			
12b MEAN=		0.144	SD=	0.000	RSD=	0.000
	23	6.307	0.159			
	23	6.277	0.157			
12a MEAN=		0.158	SD=	0.001	RSD=	0.632
	24	8.206	0.264			
	24	8.546	0.282			
12b MEAN=		0.273	SD=	0.012	RSD=	4.395
	25	4.842	0.078			
	25	4.841	0.078			
13a MEAN=		0.078	SD=	0.000	RSD=	0.000
	26	4.835	0.073			
	26	4.816	0.076			
13b MEAN=		0.077	SD=	0.001	RSD=	1.298
	27	5.661	0.123			
	27	5.822	0.132			
14a MEAN=		0.127	SD=	0.006	RSD=	4.724
	28	2.061	-0.076L			
	28	2.028	-0.077L			
14b MEAN=		-0.077	SD=	0.000	RSD=	0.000
	29	4.391	0.053			
	29	4.357	0.051			
15a MEAN=		0.052	SD=	0.001	RSD=	1.923
	30	5.045	0.089			
	30	5.008	0.087			

15a	MEAN=	0.052	SD=	0.001	RSD= 1.923
	30	5.045 0.089			
	30	5.008 0.087			
15b	MEAN=	0.088	SD=	0.001	RSD= 1.136
	31	2.682-0.041L			
	31	2.659-0.043L			
16a	MEAN=	-0.042	SD=	0.001	RSD=-2.381
	32	5.409 0.109			
	32	5.397 0.109			
16b	MEAN=	0.109	SD=	0.000	RSD= 0.000
	33	3.110-0.018L			
	33	3.110-0.018L			
1a	MEAN=	-0.018	SD=	0.000	RSD= 0.000
	34	3.390-0.002L			
	34	3.410-0.001L			
1b	MEAN=	-0.002	SD=	0.000	RSD= 0.000
	35	3.404-0.001L			
	35	3.113-0.017L			
2a	MEAN=	-0.009	SD=	0.011	RSD=-122.2
	36	2.359-0.059L			
	36	2.348-0.060L			
2b	MEAN=	-0.060	SD=	0.000	RSD= 0.000
	37	3.371-0.003L			
	37	3.382-0.003L			
3b	MEAN=	-0.003	SD=	0.000	RSD= 0.000
	38	3.064-0.020L			
	38	3.067-0.020L			
4a	MEAN=	-0.020	SD=	0.000	RSD= 0.000
	39	2.652-0.043L			
	39	2.640-0.044L			
4b	MEAN=	-0.044	SD=	0.000	RSD= 0.000
	40	2.802-0.035L			
	40	2.746-0.038L			
5a	MEAN=	-0.037	SD=	0.002	RSD=-5.406
	41	5.112 0.093			
	41	4.785 0.075			
5b	MEAN=	0.084	SD=	0.012	RSD= 14.28
	42	5.600 0.120			
	42	5.577 0.118			
6a	MEAN=	0.119	SD=	0.001	RSD= 0.840
	43	3.639 0.012			
	43	3.652 0.012			
6b	MEAN=	0.012	SD=	0.000	RSD= 0.000
	44	5.071 0.091			
	44	5.060 0.090			
7a	MEAN=	0.090	SD=	0.000	RSD= 0.000
	45	3.980 0.030			
	45	3.985 0.031			
7b	MEAN=	0.030	SD=	0.000	RSD= 0.000
	46	4.219 0.044			
	46	4.212 0.043			
8a	MEAN=	0.043	SD=	0.000	RSD= 0.000
	47	4.821 0.077			
	47	4.709 0.075			
8b	MEAN=	0.076	SD=	0.001	RSD= 1.315
	48	4.956 0.084			
	48	4.955 0.084			
9a	MEAN=	0.084	SD=	0.000	RSD= 0.000
	49	4.111 0.038			
	49	4.082 0.036			
9b	MEAN=	0.037	SD=	0.001	RSD= 2.702
	50	4.999 0.087			
	50	5.004 0.087			
10a	MEAN=	0.087	SD=	0.000	RSD= 0.000
	51	4.033 0.033			
	51	4.046 0.034			
10b	MEAN=	0.033	SD=	0.000	RSD= 0.000
	52	4.807 0.076			
	52	4.792 0.075			
11a	MEAN=	0.075	SD=	0.000	RSD= 0.000
	53	5.049 0.089			
	53	5.044 0.089			

49 4.111 0.038
[illegible]
9b MEAN= 0.037 SD= 0.0[illegible] RSD= 2.702
50 4.999 0.087
50 5.004 0.087
10a MEAN= 0.087 SD= 0.000 RSD= 0.000
51 4.033 0.033
51 4.046 0.034
10b MEAN= 0.033 SD= 0.000 RSD= 0.000
52 4.807 0.076
52 4.792 0.075
11a MEAN= 0.075 SD= 0.000 RSD= 0.000
53 5.049 0.089
53 5.044 0.089
11b MEAN= 0.089 SD= 0.000 RSD= 0.000
54 5.669 0.124
54 5.674 0.124
12a MEAN= 0.124 SD= 0.000 RSD= 0.000
55 5.830 0.132
55 5.793 0.130
12b MEAN= 0.131 SD= 0.001 RSD= 0.763
56 5.551 0.117
56 5.523 0.115
13a MEAN= 0.116 SD= 0.001 RSD= 0.862
57 3.558 0.007
57 3.551 0.007
13b MEAN= 0.007 SD= 0.000 RSD= 0.000
58 6.217 0.154
58 6.194 0.153
14a MEAN= 0.153 SD= 0.000 RSD= 0.000
59 1.984-0.080L
59 1.982-0.080L
14b MEAN= -0.080 SD= 0.000 RSD= 0.000
60 5.393 0.106
60 5.395 0.108
15a MEAN= 0.108 SD= 0.000 RSD= 0.000
61 5.425 0.110
61 5.424 0.110
15b MEAN= 0.110 SD= 0.000 RSD= 0.000
62 2.896-0.029L
62 2.897-0.029L
16a MEAN= -0.029 SD= 0.000 RSD= 0.000
63 5.112 0.093
63 5.154 0.095
16b MEAN= 0.094 SD= 0.001 RSD= 1.063
64 5.840 0.133
64 5.849 0.133
1 MEAN= 0.133 SD= 0.000 RSD= 0.000
65 5.858 0.134
65 5.859 0.134
2 MEAN= 0.134 SD= 0.000 RSD= 0.000
66 5.021 0.088
66 5.011 0.087
3 MEAN= 0.087 SD= 0.000 RSD= 0.000
67 5.401 0.109
67 5.413 0.109
4 MEAN= 0.109 SD= 0.000 RSD= 0.000
68 5.938 0.138
68 5.860 0.134
5 MEAN= 0.136 SD= 0.002 RSD= 1.470
69 5.449 0.111
69 5.256 0.101
MEAN= 0.106 SD= 0.007 RSD= 6.603
70 2.213-0.067L
70 2.209-0.067L
MEAN= -0.067 SD= 0.000 RSD= 0.000
71 5.759 0.129
71 5.740 0.127
8 MEAN= 0.128 SD= 0.001 RSD= 0.781

8	0.221	0.1988	1.11167	
			0.947136	
ACTH(100nM)				
con				
1a	0.038	0.3977	0.095549	
1b	0.057	0.3636	0.156766	
2a	0.058	0.4902	0.118319	
2b		0.4441		
3b	0.056	0.3771	0.148502	
4a	0.035	0.5005	0.06993	
4b	0.006	0.5643		0.010633
avg			0.117813	
high-Ca				
5a	0.017	0.4475		0.037989
5b	0.177	0.3302	0.536039	
6a	0.21	0.4576	0.458916	
6b	0.075	0.4078	0.183914	
7a	0.174	0.3832	0.454071	
7b	0.098	0.5349	0.183212	
8a	0.115	0.4088	0.281311	
8b	0.154	0.2215	0.69526	
avg			0.39896	
medium-dairy				
9a	0.166	0.5304	0.312971	
9b	0.107	0.4747	0.225406	
10a	0.169	0.53	0.318868	
10b	0.103	0.5327	0.193355	
11a	0.155	0.3235	0.479134	
11b	0.172	0.3931	0.437548	
12a	0.216	0.2288	0.944056	
12b	0.226	0.2761	0.818544	
avg			0.466235	
high-dairy				
13a	0.207	0.3945	0.524715	
13b	0.069	0.3999	0.172543	
14a	0.253	0.307	0.824104	
14b	0.237	0.2847	0.832455	
15a	0.196	0.2033	0.964092	
15b	0.198	0.3495	0.566524	
16a	0.023	0.4219		0.054515
16b	0.18	0.4152	0.433526	
avg			0.616851	